

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4370-02
Bill No.: HB 1397
Subject: Employees - Employers; Labor and Industrial Relations Dept.;
Workers Compensation
Type: Original
Date: February 10, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Workers' Compensation Fund	\$25,508	\$41,052	\$39,046
Second Injury Fund	\$258,836	\$739,531	\$999,131
Total Estimated Net Effect on <u>Other</u> State Funds	\$284,344	\$780,583	\$1,038,177

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor** and the **University of Missouri** assume this proposal would have no impact on their organizations.

Officials from the **Department of Labor and Industrial Relations (DOL)** assume this proposal would:

- Reduce the statutorily authorized number of administrative law judges from thirty to twenty-five.
- The Qualifications Advisory Committee would be created (Committee). The Committee would consist of six persons appointed by the Governor with the advice and consent of the Senate. Members would serve without compensation, but with reimbursement for necessary expenses.
- The Committee, in consultation with the ten most senior administrative law judges, would develop a written examination for applicants for administrative law judge and legal advisor positions.

ASSUMPTIONS (continued)

- Applicants must successfully complete the examination and show a minimum of five years experience in workers' compensation trial or appellate practice.
- The Committee would interview all eligible applicants to determine suitability for the position, especially with regard to objectivity.
- The Committee would evaluate the performance of each administrative law judge every two years and recommend retention, suspension, removal, or additional training or education of an administrative law judge to the Governor based on such evaluation. The Governor would be required to notify the Committee in writing of any action taken. Information obtained regarding these evaluations is exempt from the Missouri Sunshine law.

The Workers' Compensation Division (WCD) estimates it would require two additional FTEs as a result of this legislation: one information specialist and one Administrator for the Qualification Advisory Committee.

WCD assumes it would have to implement training for its information specialists, mediators, and other persons who respond to employee, employer, insurer, third party administrator, attorney and other calls to provide information regarding the workers' compensation rights, benefits and obligations. Training would be required regarding changes in this bill.

WCD anticipates that the combination of various changes reducing compensable injuries would combine to provide a minimal reduction in benefits, or cost savings, to the Second Injury Fund during the period covered by this fiscal note. Since the changes in this proposal would only affect injury dates occurring on, or after, August 28, 2004, it would take several years for the full impact of this proposal to be fully reflected in cost savings to the Second Injury Fund.

Based on cases disposed of in FY 2001, FY 2002, and FY 2003, the overall average case disposition time equaled 2.91 years for Second Injury Fund cases. These averages ranged from a low of 2.84 years in FY 2003 to a high of 3.00 years in FY 2001.

To determine cost savings during the years covered by this fiscal note, WCD broke down the number of cases resolved within 1 year, within 2 years, and within 3 years. Respectively, the percentage of each was applied as a cost saving in each of the following fiscal years covered by this fiscal note: FY 2005, FY 2006, FY 2007.

Prior to doing this, WCD made an assumption that, in its entirety, this legislation would reduce

ASSUMPTIONS (continued)

total compensable cases by 3 percent. Based on the last three fiscal years, the average number of Second Injury Fund cases resolved with an award being issued equaled 11,355. A 3 percent reduction in this number equals 11,014. Based on Division data, 20.30 percent of all cases are resolved one year from the injury date, an additional 37.70 percent within two years, and another 20.35% within three years. Since the onset of each year will initiate different first year cases, second year cases that were once first year cases, and so on, the preceding percentage amount for a given year is added to the current percentage amount, to determine the case resolution numbers.

WCD used data from the three preceding years to determine the average cost per resolved case.

The final calculation, the estimated cost reduction to the Second Injury Fund follows:

\$258,836 in FY 05;
\$739,501 in FY 06; and
\$999,131 in FY 07.

WCD estimates that one additional FTE information specialist would be required to assist with phone calls generated as a result of the changes made by this legislation.

The Department of Labor and Industrial Relations would be required to provide staffing for the newly created Qualifications Review Committee. DOL assumes the Committee will need an Administrator.

One administrative law judge will have to be removed. The Division currently has 26 administrative law judges (ALJ), and the proposal would limit the Division to 25 ALJ. Removing one ALJ would result in a savings to the Workers' Compensation Administrative Fund of \$121,306 per fiscal year. The Division prorated this amount to \$101,090 in FY05 and used the entire amount in FY06 and FY07. The Division is unable to estimate the effect this would have on the productivity of the affected office.

The Division would be required to develop a form for notifying injured workers of their options for payment of their attorneys in workers' compensation cases. The Division assumes development, programming, printing and distributing this form will cost \$1,000. The Division is required to provide all forms free of charge.

Oversight assumes WCD could absorb the cost of training and of developing, programming, and distributing the new form with existing resources. Oversight has, for fiscal note purposes only, changed the starting salary for the new positions to correspond to the second step above

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ASSUMPTIONS (continued)

minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted expense and equipment estimates in accordance with Office of Administration budget guidelines.

Officials from the **Office of Administration** and the **Office of the Attorney General** did not respond to our request for information.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
WORKERS' COMPENSATION FUND			
<u>Cost Reduction - WCD</u>			
Administrative Law Judge position eliminated	\$101,090	\$121,306	\$121,306
Cost - WCD			
Salaries (2 FTE)	(\$45,790)	(\$56,322)	(\$57,730)
Benefits	(\$18,957)	(\$23,317)	(\$23,900)
Expense and equipment	<u>(\$10,835)</u>	<u>(\$615)</u>	<u>(\$630)</u>
Total cost	<u>(\$75,582)</u>	<u>(\$80,254)</u>	<u>(\$82,260)</u>
ESTIMATED NET EFFECT ON WORKERS' COMPENSATION FUND	<u>\$25,508</u>	<u>\$41,052</u>	<u>\$39,046</u>
SECOND INJURY FUND			
<u>Cost reduction - claims not compensable</u>	<u>\$258,836</u>	<u>\$739,531</u>	<u>\$999,131</u>
ESTIMATED NET EFFECT ON SECOND INJURY FUND	<u>\$258,836</u>	<u>\$739,531</u>	<u>\$999,131</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal would change the Missouri Workers' Compensation program.

- An advisory committee for Workers' Compensation Administrative Law Judges would be created. Administrative Law Judges would be periodically evaluated, and an Administrative Law Judge examination system would be created. The number of Administrative Law Judges would be reduced.
- Labor and Industrial Commission members not confirmed by the Senate would be required to resign.
- Occupational accidents would be restrictively defined; personal health conditions and vehicle accidents driving to and from work would not be compensable.
- Occupational exposure would be restrictively defined.
- Administrative Law Judges would approve workers' compensation settlements, and set attorney fees in workers' compensation cases.
- A religious exemption from the workers' compensation program would be created for employees who elect to be exempt.

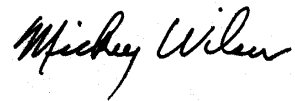
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Governor
University of Missouri
Department of Labor and Industrial Relations

NOT RESPONDING

Office of Administration
Office of the Attorney General

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 10, 2004